



**MINUTES OF SPECIAL JOINT CITY COUNCIL  
/REDEVELOPMENT AGENCY MEETING OF  
THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, February 27, 2001, 8:00 p.m.**

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**MEETING**

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Ward.

**ROLL CALL**

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,  
Rodriguez, Ward, Dowling, Henson  
MAYOR Cooper  
Absent: None

**PUBLIC COMMENTS**

Jason Moreno, 25200 Carlos Bee Boulevard, invited all to the California School for the Deaf Little Theater on Friday, March 2, to performances for both hearing and deaf audiences.

Juan H. Lopez, Jr., 22783 Inyo Street, regarding his property at 907 Pope Way, noted that due to the tree in front of his home, he has experienced severe damage both to the sidewalk and the sewer line at this property. He indicated that he has had to have work done to repair in excess of \$5,000 and requested financial assistance for this repair.

Mayor Cooper asked that a staff member contact Mr. Lopez.

Rev. Bob Mathews, 8016 Shepherd Canyon Road, representing the South Hayward Parish, suggested having a board similar to the rent dispute control board in San Leandro and the feasibility of establishing a more comprehensive approach to rent disputes between landlords and tenants. His second issue was further information on the General Plan Process; how to participate, what is the schedule for community workshops, and how will the general population be informed?

Kenneth Harmeyer, 23845 Ida Lane, commented on various topics including housing, past elections and, in his opinion, peculiarities in the zoning ordinance.

Francisco Abrantes, 22815 Alice Street, read an announcement regarding an event in San Francisco.

Jim Drake, 25795 Franklin Avenue, reiterated his concern against the serving of alcohol at a restaurant near his home. He indicated that there is still time to protest against its approval.

**CONSENT**

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1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of February 20, 2001

It was moved by Council/RA Member Ward, seconded by Council/RA Member Jimenez, and unanimously carried to approve the Minutes of the Special Joint City Council/Redevelopment Agency Meeting of the City Council of February 20, 2001.

2. Adoption of an Ordinance re PERS Contract Amendment Related to Fourth Level of 1959 Survivor Benefits for Miscellaneous Employees

Staff report submitted by City Clerk Reyes, dated February 27, 2001, was filed.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to adopt the following:

Ordinance No. 01-04, "An Ordinance Authorizing an Amendment to the Contract Between the City Council and the Board of Administration of the California Public Employee's Retirement System"

## HEARINGS

3. Appeal of Planning Commission's Denial of Administrative Use Permit and Parking Exceptions Application No. 00-150-36 - Tonja Williamson (Applicant/Appellant), Willie and Barbara Merritt (Owners) - Request to Establish a Childcare Center and Exceptions to Off-Street Parking Regulations - The Property is Located at 694 Corrine Street

Staff report submitted by Planning Manager Anderly, for February 27, 2001, was filed.

Planning Manager Anderly reported that this was denied both by the Planning Director and the Planning Commission due to inadequate drop-off and parking conditions as well as increased traffic and noise to the neighborhood. She noted the difference between a commercial center and a residential childcare business. She commented that childcare for up to 14 children can be approved administratively but in this instance the parking requirements are not met. The house is about 6,000 square feet, similar to the single-family residences in the area.

Council Member Dowling asked whether there are other locations in town which might serve this Center. He was told that many suggestions were made to relocate the center to the Fairway Park Shopping Center which does not have adequate outside open space. The easiest places are at churches which have limited activities during the week.

Council Member Ward asked whether the issue of parking was the only issue.



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Planning Manager Anderly responded that according to the State, this property could meet State requirements.

Council Member Ward asked whether the applicant could continue to operate as a childcare center if the Council denies this appeal. Staff responded that they are licensed for eight, and are eligible to request permission to have up to 14 children. If Council disallows the appeal, to be legal within the City, the applicant would have to reconvert the garage and someone would have to reside at the location. They would like to be classified as a Child Care Center and a commercial business rather than just daycare. Planning Manager Anderly noted that they could not continue operating under the current conditions. She answered further questions from Council Members.

Mayor Cooper opened the public hearing at 8:38 p.m.

Cecelia Meskie, 31251 Chicoine Avenue, spoke against the facility noting that her backyard is next to the property. She commented on the inconvenience, noise, and potential decrease in property value. She noted that currently no one lives in the home. A wall built by the applicant which should be 10 feet back from the sidewalk, blocks her view when she exits her drive-way. Lastly, she noted that permits were not pursued, nor did the applicant attempt to discuss her proposal with the neighborhood. She described various daycare locations in the area.

Janet Silborhorn, 675 Corrine Street, she said she does not object to the smaller daycare presently at the location, however, a larger center would detract from the neighborhood. She expressed concern and spoke against the proposal.

Rosemary Martinez, 31280 Chicoine Avenue, has lived in her home for over 14 years and expressed concerns related to noise, increased traffic and a vacant property. The developer has a statement signed by buyers which states that nothing will be done in the neighborhood which will be cause a nuisance or annoyance to the neighbors. She also commented on the traffic in the neighborhood. She spent time refuting comments in a letter supporting the applicant.

Lorraine Merritt, 224035 Garden Avenue, spoke on behalf of the applicant. She has three children attending daycare at the present location. It would be beneficial to many people and their children for this application to be approved.

Aldo Giolotti, 1525 Grant Avenue #150, Novato, spoke on behalf of the applicant. He noted the imbalance among all the requirements of the State, City and serving the needs of the community. He suggested the needs of the community should be the paramount consideration. The State approved the facility for the maximum number of children. He said the traffic report indicated that traffic was below the minimum for problems. The applicant is amenable to accommodating City concerns regarding traffic and parking problems. He also responded to further questions

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from Council Members. He commented that he has provided tax preparation and financial advice to the applicant.

Dorothy Leopold-Cobb, 22632 Northview Drive, spoke on behalf of the applicant. She emphasized that daycare in a residential neighborhood is safer for the children.

A statement for Mary Mayer, 31260 Chicoine, was read, noting that there would be serious problems if the number of children were increased.

Ron Barklow, 1210 Tiegen Drive, commented that a shopping center would be a better place for a commercial childcare center. He cited several locations in other Cities which seem to work. He noted the violations at the present location and expressed concern for the safety of the children.

Jason Moreno, 25200 Carlos Bee Boulevard, agreed with the need for daycare. He asked that the applicants be questioned related to their qualifications and the quality of care; whether the applicants will directly oversee the care.

Tonia Williamson, the appellant, indicated that she is a resident at the property, but plans to turn the entire property into a center. She had a petition with 20 signatures of those who want their children in a family residence for daycare. She noted that the State has authorized a maximum of 24 children at this property. She reported that the converted garage is used for students to work on homework. She added that if she converts to a Child Care Center, she would no longer be a resident. She explained a number of issues that had been questioned by others. She indicated that her parents purchased the house. She also responded to questions from Council.

Jim Drake, 25795 Franklin Avenue, commented that anything over \$600 requires a contractor and a permit.

Mayor Cooper closed the public hearing at 9:33 p.m.

Council Member Jimenez moved, seconded by Council Member Dowling, to uphold the Planning Commission decision and deny the appeal.

Council Member Ward spoke in support of the motion. He recognized the need for adequate affordable licensed daycare in Hayward. It is unfortunate that the business operator neglected to inform the neighborhood of her business. He encouraged the appellant to find a new location adding that this is not the proper location for this use.

Council Member Henson agreed with Council Member Ward. He added that the communication gap was very wide. The more children at the Center, the more difficult traffic would become. He acknowledged the applicant for her creativity and encouraged her to look for a different location.

Council Member Dowling also encouraged the appellant to find a new location. He emphasized



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that 24 children in a residential neighborhood would create any number of problems.

Mayor Cooper added that the only reason this became an issue was that the applicants wanted to serve 24 children. She indicated that they should have been upfront with the neighborhood, staff and the Council Members. She said they deliberately misled the neighbors and the City. Mayor Cooper said Ms. Williamson should have gotten the correct permits through the City.

It was moved by Council Member Jimenez, seconded by Council Member Dowling, and unanimously carried by all present, to approve the following:

Resolution 01-030, "Resolution Denying Appeal of Planning Commission's Decision to Deny Use Permit Application No. 00-150-36 - Tonia Williamson (Applicant and Appellant); Willie and Barbara Merritt (Owners)"

#### **LEGISLATIVE BUSINESS**

##### **4. Proposed Recycle Construction and Demolition Debris Ordinance**

Staff report submitted by Deputy Director of Public Works/  
Utilities Ameri, dated February 27, 2001, was filed.

Director of Public Works Butler reported that this ordinance is required to ensure the City's full compliance with AB 939. The proposed ordinance would make recycling of construction and demolition debris mandatory. All large construction projects with the exception of single-family residences would fall under this ordinance. All applicants for a building or demolition permit would be required to fill in a construction and demolition debris compliance statement. As to the implementation, he commented that staff is sensitive to current building trends and aware of not interfering in the building mode in the City. They will make every effort not to create a further level of bureaucracy in the permit process, or provide an undue burden on the building community. They will provide materials, such as "A Builders' Guide to Reuse and Recycling" to help the builders comply with the ordinance. He noted that Oakland and Dublin have implemented similar construction and demolition debris ordinances. He reviewed various aspects of the proposed ordinance, and noted the comments from the review of the Environmental Commission as well as from certain building contractors. He noted that large housing tracts would not be exempt, just the individual builder.

Council Member Ward asked whether the \$75,000 took into account inflation. He then asked about the use of wood in "deconstruction."

Director of Public Works Butler responded that this amount is at the midpoint between what Oakland and Dublin have used. He noted that voluntary compliance in the past has used a great

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deal of deconstruction and recycling.

Council Member Hilson commented that he thought there was a 5-year reevaluation in the ordinance. He commented on the \$75,000 thinking the \$50,000 would be a more appropriate number. He then noted the significant quantity of debris generated by a home remodeling project.

Director of Public Works Butler stated that the smaller remodeling projects rarely generated the massive amounts of debris as do larger building sites. He noted that the amount seemed to capture the majority of the construction and demolition debris within the City.

Council Member Jimenez asked about the dump sites within the County. He was told that Waste Management Authority is allowing a subsidy until one is located within the County.

Council Member Dowling asked whether they could add a clause stipulating that, when a contractor is doing the work, the ordinance will apply.

Council Member Henson asked whether anything might preclude a voluntary submission to this ordinance. He was told nothing would preclude this, in fact staff would encourage this. He indicated that volunteers would not have to go through all of the process. If they fell under the ordinance, the applicant for the permit would be the responsible party.

Mayor Cooper opened the public hearing at 10:05 p.m.

Dave MacDonald, representing Waste Management of Alameda County, Oakland, indicated that they were in favor of the C&D ordinance. He suggested that the ordinance clarify that it is different from the franchise contract. He suggested the City make reference to the franchise agreement in the ordinance or create a letter of understanding to clarify the various points of concern. He noted that they had reached an agreement with the Alameda County Waste Management Authority to construct a materials recovery facility at the Davis Street Facility.

Frank Goulart, 22248 Main Street, commented in favor of the ordinance. He commented that \$75,000 is a large amount for a residential renovation. This ordinance is a step in the right direction. He congratulated staff for their help in efforts for contractors to recycle. He asked for consideration of lowering the amount. He noted the low fines for violations. He suggested having to revisit the ordinance from time to time.

Jason Moreno, 25200 Carlos Bee Boulevard, asked about the annual costs to the City. He also asked what action would be taken if there was an earthquake or an act of God.

Director of Public Works Butler said it is not anticipated that any additional staff will be needed to enforce the ordinance.

Mayor Cooper closed the public hearing at 10:14 p.m.



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Council Member Hilson moved to approve the ordinance with the change of including single family homes projects over \$75,000. He noted that the Authority did a waste category study to find out what categories these materials fall into. It is a significant component of waste.

Council Member Dowling asked that staff respond to Waste Management, and also to Mr. Moreno's question regarding an act of God.

City Attorney O'Toole indicated that this is a separate ordinance and has nothing to do with the Waste Management Agreement.

City Manager Armas indicated that staff will also evaluate whether it is necessary to respond in writing regarding the franchise agreement. He agreed that the City would use common sense in responding to an act of God.

Council Member Henson asked about the guidelines.

Director of Public Works Butler responded that staff will work with applicants and provide the information on where and how they can recycle the materials.

Council Member Ward questioned the slight modification to add "single-family" to the ordinances and whether it is only for use of a contractor. He was told they would be informed at the time of the permit application.

It was moved by Council Member Hilson, seconded by Council Member Dowling, and unanimously carried by all present, to introduce the following an include "single-family homes" as part of the ordinance:

Ordinance No. 01-\_\_, " An Ordinance of the City Council of Hayward Adding Article 10 to Chapter 5 of the Hayward Municipal Code Relating to Waste Reduction and Recycling Requirements for Construction and Demotion Debris"

5. Authorization for the City Manager to Execute an Agreement with the Parsons Transportation Group, Inc., for Evaluation of the Route 238 Bypass Contingency Plan and the Appropriation of Funds

Staff report submitted by Deputy Director of Public Works Bauman, dated February 27, 2001, was filed.

City Manager Armas explained that the use of the funds are for evaluation and preliminary cost data and to compare it to the present project under study for the EIR. He indicated that the Transportation Authority has tabled the matter, and the County Board of Supervisors will hear

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the matter on March 6. He added that if these two bodies agree to help with the studies, the costs will be reduced accordingly.

Council Member Ward suggested that air quality be included in the environmental issues that will impact wetlands and any pertinent issues, including any issues of hazardous waste.

Council Member Henson commented on the experience of the Parsons Group in the area of tunnels. He asked why none of the other five firms responded. He was told the others seem to be involved with other projects.

Mayor Cooper opened the public hearing at 10:27 p.m.

Marla Murphy, 26424 Flamingo Avenue, indicated that she voted for the 238-freeway twice and the Council should abide by that vote. She noted that her group will be actively advocating the original freeway route. She expressed concern about the time it would take to build the tunnels.

John Sands, 665 Quincy Way, expressed concern that this new route is a mistake for the City of Hayward. He resented the fact that his vote for the freeway has led others to imagine it can be in only one place. He added that people are more concerned about traffic than crime.

Frank Goulart, 22248 Main Street, said people in Hayward are not going to agree with removing the Hayward Plunge. He added that it is absurd to imagine spending \$500,000 to study something people will disagree with.

Jason Moreno, 25200 Carlos Bee Boulevard, commented that Parsons Group is not an honorable company.

Mayor Cooper closed the public hearing at 10:40 p.m.

City Manager Armas clarified that the present Route 238 project is being supported by the present City Council and staff. There was no response to the letter sent to the Federal Highway Administration. He noted that they are trying to preserve and protect the Measure B funds.

Mayor Cooper noted that Lia Little submitted a card after the close of the public hearing. She would not re-open the public comments portion of the item. Mayor Cooper invited her to come to the next meeting and share her thoughts at the public comments portion of the meeting.

Council Member Dowling commented that a number of the elected officials in the area are opposed to the building of Route 238. He said there are a lot of questions as to whether this will work. That is why the study is needed. It is not a perfect plan, but spending the money will help find out whether it is feasible.

Council Member Jimenez said he respects the people's vote but the Council should look at all options.





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Council Member Hilson commented on the "238 reality." He noted that the alignment differences were determined to be important to a court. It could determine that the differences negate the whole proposal. This is a contingency to see if there is a compromise for all parties to agree on. The money for this project comes from the LAVWMA, not the taxpayers.

Council Member Henson expressed concern that if the contingency plan turns out to be non-viable, the City will be out of funds. He noted that the majority of the voters still support the original plan. He would not be supporting the motion.

Council Member Rodriguez suggested that this looking for options should have occurred 20 or 25 years ago. It starts some direction and action. Freeways are always destructive to neighborhoods. My choice is to look at an option. It is less of a blight than to have the freeway in the hills.

Council Member Ward suggested that the City has looked at a number of alternatives. He said it is the obligation of Council to support those who voted for the 238 alternative.

It was moved by Council Member Dowling, seconded by Mayor Cooper, and carried by the following roll call vote to approve the following resolution:

AYES: Council Members Jimenez, Hilson, Rodriquez,  
Dowling,  
MAYOR Cooper  
NOES: Council Members Ward, Henson  
ABSENT: None  
ABSTAINED: None

Resolution 01-031, "Resolution Authorizing the City Manager to Execute an Agreement Between the City of Hayward and Parsons Transportation Group, Inc. for Evaluation of the Route 238 Bypass Contingency Plan"

Resolution 01-032, "Resolution Transferring Funds and Amending Resolution No. 00-089, the Budget Resolution for Capital Projects for Fiscal Year 2000-2001, Relating to an Appropriation of Funds for the Evaluation of the Route 238 Bypass Contingency Plan"

## **COUNCIL REPORTS**

There were no Council Reports.

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**ADJOURNMENT**

Mayor Cooper adjourned at 10:58 p.m.

**APPROVED:**

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Roberta Cooper, Mayor, City of Hayward

**ATTEST:**

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Angelina Reyes, City Clerk, City of Hayward